

Article 5: Subdivision Procedures

Division 9: Public Right-of-Way Vacations

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§125.0901 Purpose of Public Right-of-Way Vacation Procedures

The purpose of these procedures is to establish a process for approving applications to vacate a *public right-of-way* and to supplement the provisions of California Streets and Highways Code, Sections 8300 through 8363.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§125.0910 When a Public Right-of-Way Vacation May Be Initiated

- (a) The vacation of a *public right-of-way* may be initiated by resolution of the City Council or by petition or request of any person. A *public right-of-way* also may be vacated by filing a *tentative map* and a *parcel map* or final map pursuant to the *Subdivision Map Act*, Section 66499.20 1/2, and in accordance with the provisions of this article.
- (b) A *public right-of-way* may be summarily vacated if it does not contain *public utility* facilities, does not contain active *public utility* facilities, or contains *public utility* facilities that would not be affected by the vacation and if any of the following applies:
 - (1) The *public right-of-way*, or portion of the *public right-of-way*, is excess *public right-of-way* and is not required for *street* or highway purposes;
 - (2) The *public right-of-way* lies within one ownership and does not continue through that ownership or touch the property of another owner;
 - (3) The *public right-of-way* has been impassable for vehicular travel for a period of 5 years and public funds have not been expended for maintenance of the *public right-of-way* during that period.
 - (4) The *public right-of-way* is intercepted by a state *freeway* and an agreement has been entered into pursuant to California Streets and Highways Code Section 100.2.

- (5) The *public right-of-way* has been superseded by relocation, provided the vacation would not cut off all access to an individual property that, before relocation, adjoined the *public right-of-way*.
- (c) Public facilities within the *public right-of-way* shall be deemed unaffected by the vacation if they are to be relocated with no impact on service or if an appropriate easement is reserved from the vacation to provide for the continued use and maintenance of the public facility.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§125.0920 How to Apply for a Public Right-of-Way Vacation

An application for vacation of a *public right-of-way* shall be filed in accordance with Section 112.0102. A *parcel map* may be filed in lieu of a vacation plat for the purpose of a *public right-of-way* vacation.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§125.0940 Decision Process for a Public Right-of-Way Vacation

A decision on an application to vacate a *public right-of-way* shall be made in accordance with Process Five with the following exceptions to Process Five procedures:

- (a) The Notice of Public Hearing required by Section 112.0301(c) shall be distributed 14 calendar days before the date of the public hearing, in accordance with California Streets and Highways Code Section 8322. The Notice of Public Hearing shall be posted in accordance with California Streets and Highways Code Section 8323.
- (b) Before a City Council hearing to vacate a *public right-of-way*, the City Council shall approve a Resolution of Intention that specifies the time and place of the hearing in accordance with California Streets and Highways Code Section 8320.
- (c) A summary vacation of a *public right-of-way* pursuant to Section 125.0910(b) does not require a Resolution of Intention as specified in Section 125.0940(b) or a recommendation by the Planning Commission.
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§125.0941 Findings for Public Right-of-Way Vacation Approval

A public right-of-way may be vacated only if the decision maker makes the following findings:

- (a) There is no present or prospective public use for the *public right-of-way*, either for the facility for which it was originally acquired or for any other public use of a like nature that can be anticipated;
- (b) The public will benefit from the action through improved use of the land made available by the vacation;
- (c) The vacation does not adversely affect any applicable *land use plan* or; and
- (d) The public facility for which the *public right-of-way* was originally acquired will not be detrimentally affected by the vacation.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§125.0950 Recording of a Public Right-of-Way Vacation

If the vacation is approved, the City shall provide the resolution and any accompanying documents to the County Recorder for recordation. If the resolution contains conditions, it shall not be provided to the County Recorder for recordation until the City Engineer has determined that all conditions have been met. The filing for record of a *subdivision map* pursuant to the *Subdivision Map Act*, Section 66499.20 1/2, shall have the same effect.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)